IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No. 2547 of 1997

Between:

Madakam Pandu dora S/o. Peddbbai, aged about

23 years, Record Assistant,G.V.K Oriental High

School, C/o Girijan Vikas Kendra,Vedurunagaram,

East Godavari District.

..... PETITIONER

AND

1 Govt. of A.P. rep by Secretary Education Department,
Secretariat, Hyderabad.
2 Director of School Education, Govt. of A.P.
Hyderabad.
3 District Educational Officer,
Kakinada Dist., East Godavari Dist.
4 G.V.K. Oriental High School, rep. by its Correspondent
C/o Girijana Vikasa Kendra,Vendurunagaram, E.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus by i) declaring that the petitioner is entitled to hold the post of Record Assistant in the 4th respondent school in the aided post ii) declare that he is entitled to the aided salary attached to the said post from the date of appointment and consequently direct the respondents to pay the arrears of salary and continue to pay the same by declaring the action of the respondents in not paying the salary as illegal arbitrary unconstitutional and violation of article 14 and 16 of constitution of India.

Counsel for the Petitioner: MR.Pratap Narayan Sanghi

Counsel for the Respondent Nos.1 to 3: GP for School Education

Counsel for the Respondent No.4: None appeared.

The Court made the following :

ORDER:

Aggrieved by the action of the respondents, the petitioner filed the writ petition seeking writ of Mandamus declaring that the petitioner is entitled to hold the post of Record Assistant in the 4th respondent school in the aided post and further to declare that he is entitled to the regular salary attached to the said post from the date of appointment, declaring the action of the respondents in not paying the salary as illegal, arbitrary and unconstitutional, and consequently to direct the respondents to pay the arrears of salary.

2. According to the petitioner, the post of Record Assistant was notified in the year 1995 and through Employment Exchange the petitioner's name was sponsored and the petitioner had undergone selection process that was conducted on 1-3-1995. In pursuance of the said selection process, the petitioner was selected and was appointed as Record Assistant on 8-3-1995. The said selection of the petitioner as Record Assistant was approved by the 3rd respondent-District Educational Officer, who is the competent authority. But, however, the petitioner's salary was stopped in the year 1995 and the respondents failed to pay the same in spite of the representations made by him. Hence, the petitioner filed the present writ petition.

3. This Court while admitting the writ petition passed interim directions to pay the arrears of salary to the petitioner and also pay the salary regularly. It is stated that one J.T.V.V. Ananta Lakshmi was appointed as Record Assistant in the 4th respondent institution in an unaided vacancy. But, however, in the year 1991 she was appointed as Telugu Pandit Grade-II in an aided vacancy. The appointment of the said Anantha Lakshmi was approved by the 3rd respondent, vide proceedings dated 09-08-1991. Subsequently, the 2nd respondent, who is the competent authority to approve the said appointment, did not approve the same as the appointment was not in accordance with the Rules, and orders were passed cancelling the approval made by the 3rd respondent, with a further direction to recover the salaries that were paid to the said Anantha Lakshmi. Consequently, the said Anantha Lakshmi was reverted to the post of Record Assistant. But, however, while reverting her to the post of Record Assistant, she was shown to have been reverted to the aided vacancy of Record Assistant, instead of unaided vacancy, which she was holding prior to her appointment as Telugu Pandit Grade-II, as a

result of which, the salary that was being paid to the petitioner was stopped. Therefore, the petitioner has come up with the present writ petition.

4. The learned counsel for the petitioner contended that once the petitioner has been appointed against a regular vacancy which was notified, for which the name of the petitioner was sponsored by the Employment Exchange, it would not be legal for the respondents to change the status of the petitioner when he was recruited against an aided vacancy of Record Assistant to that of unaided vacancy. The Learned counsel further contended that Anantha Lakshmi was not promoted but she was directly appointed as Telugu Pandit Grade-II and if her appointment was set aside or cancelled she cannot make any claim against the vacancy to which the petitioner was appointed as Record Assistant. It is contended that as she was holding un-aided vacancy, she should be reinstated only in that vacancy and not in an aided vacancy to which the petitioner was appointed.

5. A counter has been filed on behalf of the 3rd respondent. In the counter it was fairly conceded that the petitioner was appointed against an aided vacancy of Record Assistant in accordance with the selection process prescribed in the Rules made in G.O.Ms.No.1 Education, dated 01-01-1994. Therefore, the petitioner cannot be shifted to any unaided vacancy. It was also stated that the 4th respondent while reverting the Anantha Lakshmi to the post of Record Assistant has erroneously reverted her to the aided vacancy, which was illegal. Therefore the salary that is being paid to an aided vacancy of Record Assistant was not released. In the counter it is also further stated that as per the interim order passed by this Court on 13-2-1997 the salary is being released and paid to the petitioner, which is payable against an aided vacancy of Record Assistant and therefore there cannot be any grievance to the petitioner.

6. As the respondents have fairly conceded in the counter that the petitioner was appointed against an aided vacancy of Record Assistant following due process of law prescribed under the Rules made in the G.O., referred to above, the status of the appointment of the petitioner cannot be altered. If another person, i.e., Anantha Lakshmi has been reverted from the post of Telugu Pandit Grade-II to the post of Record Assistant, at the most she can take her unaided post of Record Assistant if it is kept vacant and she cannot make any claim against the post in which the petitioner was appointed, as the respondents have already released and the salary

is being paid to the petitioner that is payable to the post of an aided Record Assistant to which the petitioner is entitled. Therefore, no further adjudication is required to be made in this writ petition.

7. Therefore, the writ petition is dismissed. No costs.

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(S.ANANDA REDDY,J)

14-09-2004

rkk/kvh

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No. 2547 of 1997

ORAL ORDER

Dt. 14…09…2004

To

1. The Secretary, Govt. of A.P. Education Department,
   Secretariat, Hyderabad.
2 The Director of School Education, Govt. of A.P.
   Hyderabad.
3 The District Educational Officer,
   Kakinada Dist., East Godavari Dist.
4 The Correspondent, GVK Oriental High School

C/o Girijana Vikasa Kendra, Vendurunagaram

E.G.District.

5 Two CCs to G.P., for School Education,

High Court Buildings, Hyderabad (OUT)

6 Two CD Copies.